



Department of
Transport

Recognition of Overseas Driver's Licences Consultation Paper

August 2018

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1. Why read this paper?

The Department of Transport (DoT) is considering amendments to current laws in Western Australia (WA) that may affect people who drive in WA using an overseas driver's licence.

DoT recognises overseas driver's licences for the purpose of driving in WA. Once a permanent visa has been granted, persons migrating to Australia are authorised to drive on their overseas driver's licence for a period of three months from the date they commence residing in WA¹. Additionally, when applying for a WA driver's licence, these drivers are exempt from the requirement to go through the Graduated Driver Training and Licensing (GDT&L) process. The GDT&L process includes additional experience and test requirements where a person has not previously held a driver's licence.

However, overseas drivers visiting Australia or living in Australia on temporary visas are authorised to drive on their overseas driver's licence indefinitely unless:

- the overseas driver's licence is suspended or for any other reason ineffective under the law of the place where the authorisation was granted e.g. expired;
- the person has been granted an Australian driver's licence; or
- the person has been disqualified from holding or obtaining a driver's licence e.g. Court disqualification or Excessive Demerits Points disqualification;

Following a joint investigation between DoT and the Corruption and Crime Commission (CCC) the CCC has recommended that the Minister for Transport consider amendments to the *Road Traffic (Authorisation to Drive) Regulations 2014* to change or cease the recognition of overseas driver's licences under certain circumstances.

The recommended changes relate to:

- ceasing the authorisation for a person to drive in WA using an overseas driver's licence three months after their arrival into WA, irrespective of the duration of their stay; and
- the withdrawal of the authorisation to drive in WA, immediately upon a person failing a practical driving assessment.

This Paper aims to help readers understand current laws and policies relating to the recognition of overseas driver's licences and the underlying issues. It considers the above recommendations, the impact of these on overseas licence holders driving in WA and alternative options where appropriate. Most importantly, it provides readers the opportunity to communicate to DoT what they think about the proposed new approach under consideration; supported by the rationale underpinning their opinion.

¹ This is a general statement of the law, as required by regulation 61(4) of the *Road Traffic (Authorisation to Drive) Regulations 2014*, provided for use as a guide only. The Regulation is available at https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_13557_homepage.html.

2. Tell us what you think

All stakeholders concerned about changes to the recognition of overseas driver's licences in WA are encouraged to share their thoughts about the reforms discussed in this paper.

Interested community members are invited to have their say by attending a workshop or by completing an online survey. The proposed workshop will be held in the Perth metropolitan area in September 2018.

Please refer to the website www.transport.wa.gov.au/stakeholder-surveys for more information on the survey and the workshop.

The consultation period closes 5pm on Monday 30 September 2018.

3. Next Steps

Consultation feedback will be taken into consideration before the progression of any regulatory changes to amend the recognition of overseas driver's licences in WA.

The implementation to progress regulatory amendments will commence shortly after the consultation process is complete.

4. Further Information

If you would like additional information about the proposed reforms, please contact-

Assistant Director Policy and Knowledge
Driver and Vehicle Services
Department of Transport
Email: dvspolicy@transport.wa.gov.au
Subject: Recognition of overseas driver's licences

Website: www.transport.wa.gov.au/stakeholder-surveys

5. Acronyms/Abbreviations/Terms

Australian driver's licence	A driver's licence issued by an Australian state or territory licensing authority.
Austrroads	The association of Australian and New Zealand road transport and traffic authorities, who manage issues of national consistency for different aspects of road transport
CCC	Corruption and Crime Commission
DoT	Department of Transport
Foreign law	The law of an external Territory, as defined in the <i>Acts Interpretation Act 1901</i> (Commonwealth) section 2B, or the law of another country.
GDT&L	Graduated Driver Training and Licensing system – the training process learner drivers are required to undertake prior to the grant of a WA driver licence.
National Driver Licensing Scheme (NDLS)	The National Driver Licensing Scheme (NDLS) policy principles provide the framework for a national driver licensing scheme throughout Australia. The scheme provides uniform arrangements for the post-novice licensing of drivers, the renewal of driver's licences and their suspension and cancellation.
Overseas drivers	Persons driving in Australia on an overseas driver's licence.
Overseas driver's licence	A licence (authorisation) issued to a person under a <i>foreign law</i> authorising the person to drive a motor vehicle on a road. Defined in the <i>Regulations</i> as a Foreign Driving Authorisation.
Practical Driving Assessment	An on-road driving test undertaken to demonstrate sufficient ability to safely drive / operate a vehicle.
Regulations	<i>Road Traffic (Authorisation to Drive) Regulations 2014</i> – legislation that contains legal provisions for the recognition of foreign driving authorisations (overseas driver's licences).
Vehicle class - R	Motorcycle or motor carrier.
Vehicle class - C	Car, defined as a motor vehicle, other than a motorcycle or motor carrier, that has a GVM of 4.5 t or less and that is equipped to seat not more than 12 adults including the driver.
Vehicle class - LR, MR, HR, HC, MC	Heavy vehicles, defined as: <ul style="list-style-type: none"> • LR: A motor vehicle, other than a motor cycle or motor carrier that — <ul style="list-style-type: none"> ○ has a GVM of 4.5 t or less and that is equipped to seat more than 12 adults including the driver; or ○ has a GVM of more than 4.5 t but not more than 8 t. • MR: A motor vehicle, other than a motorcycle or motor carrier that has 2 axles and a GVM of more than 8 t. • HR: A motor vehicle, other than a motorcycle or motor carrier that has at least 3 axles and a GVM of more than 8 t. • HC: A motor vehicle that is attached to — <ul style="list-style-type: none"> ○ a semi-trailer; or ○ a trailer that has a GVM of more than 9 t. • MC: Any other motor vehicle.
Visiting drivers	Drivers holding an overseas driver's licence visiting Australia on a temporary basis.
WA	Western Australia

6. Background

A recent co-operative investigation with the Corruption and Crime Commission (CCC) has determined two key recommendations for change;

- a licence issued under a foreign law becomes invalid three months after the holder first arrives in WA; and
- a Practical Driving Assessment failure automatically cancels a foreign or interstate licence.

The complete report is available at www.ccc.wa.gov.au

The DoT is currently undertaking work in consideration of these recommendations to amend laws relating to overseas driver's licence holders and wishes to consult stakeholders prior to implementing any changes.

Any impact to interstate licence holders as a result of the recommendations will be considered separately by DoT and does not form part of this paper.

7. Current regime

WA laws for the recognition of overseas driver's licences are consistent with the requirements of the national driver licensing scheme (NDLS). The NDLS provides uniform driver licensing requirements for all Australian states and territories, including:

- licence issue and renewal;
- suspension and cancellation;
- management of demerit points; and
- broadly requires that drivers converting licences issued in other countries must pass eyesight, knowledge and practical driving tests, before being issued with an Australian driver's licence. Proof of identity and address requirements must also be satisfied.

The recognition of overseas driver's licences for the purpose of driving in WA falls into two categories and is contingent on whether the holder of the overseas driver's licence is visiting Australia on a temporary visa or has been granted a permanent visa and is ordinarily resident in WA.

While driving in WA on an overseas driver's licence, all drivers must carry the official document that is evidence of that licence or authorisation with them at all times, together with either an international driving permit OR an English translation if the official document is not written in English.

It should be noted that WA road law defines an overseas licence as one issued under foreign law, which includes all overseas countries, including New Zealand, and external territories such as the Indian Ocean Territories.

Temporary visa holders (visiting drivers)

In accordance with WA road laws, the CEO, DoT must recognise an overseas driver's licence as a licence to drive in WA. Visiting drivers are authorised to drive in WA on their current overseas driver's licence so long as they are driving a class of vehicle their overseas licence authorises, and adhere to any conditions noted on their overseas licence.

Therefore, a visiting driver can drive a heavy vehicle in WA if they hold the equivalent authorisation on their overseas driver's licence. There is no time limit to the recognition of an overseas driver's licence, unless the visitor is subsequently granted a permanent visa.

Permanent visa holders

The recognition of an overseas driver's licence in WA ceases once a person:

- holds a permanent visa;
- usually resides in WA; and
- the period for which the person has been usually resident in WA since the granting of a permanent visa exceeds three months, or
- holds a driver's licence (issued in an Australian jurisdiction);
- is disqualified from holding or obtaining a driver's licence (excessive demerit points or Court imposed disqualification); or
- has received a notice in writing from the CEO Transport excluding the person from being authorised to drive a motor vehicle on a road in this State.

Therefore, persons visiting or migrating to Australia who have been granted a permanent visa must apply for, and be granted, a WA driver's licence within three months of residing in WA to continue to lawfully drive in WA.

Historical basis for recognising overseas driver licences in WA

Australia is a signatory to the 1949 Geneva Convention on Road Traffic. This provides for driving privileges to be extended to holders of an International Driving Permit when driving outside of the country that issued the International Driving Permit. The practice of allowing overseas licence holders to drive as a visitor, with no additional testing or assessment, is widely followed throughout the world and provides reciprocal arrangements for holders of an Australian driver's licence when driving overseas.

Recognition of certain countries' driver licences

Australian and New Zealand licensing authorities can 'recognise' certain countries' application and assessment processes when granting an Australian driver's licences. This means when the holder of an overseas licence, issued in a 'recognised' country, applies for an Australian licence, they may be granted one without undertaking additional driving or theory tests.

Recognition is undertaken on a national basis by the Association of Australian and New Zealand road transport and traffic authorities (Austroads), who assess the overseas driver licensing standards as being comparable to those adopted by Australia. The recognition of the country's driver licences, for the purpose of applying for an Australian driver's licence, is split into two categories, being 'recognised countries' and 'experienced driver recognised countries'.

Recognised countries

Licence holders from 'recognised countries' are exempt from undertaking a practical driving assessment or theory test when applying for an Australian driver's licence if they meet the proof of identity and address requirements and can provide evidence of their overseas driver's licence.

The exemption from testing applies only to those persons who wish to apply for a C (car) or R (motorcycle) class licence. A theory test and practical driving assessment must be undertaken for all other classes of vehicle the person wishes to drive.

A full list of recognised countries can be located online at www.transport.wa.gov.au/licensing/transferring-your-overseas-licence.asp

Experienced driver recognised countries

Licence holders from 'experienced driver recognised countries', who are 25 years of age or older, are exempt from undertaking a practical driving assessment or theory test when applying for an Australian driver's licence if they meet the proof of identity and address requirements and can provide evidence of their overseas driver's licence.

The exemption from testing applies only to those persons aged 25 years or older who wish to apply for a C (car) or R (motorcycle) class licence. A theory test and practical driving assessment must be undertaken for all other classes of vehicle the person wishes to drive, regardless of their age.

A full list of 'experienced driver recognised countries' can be located online at www.transport.wa.gov.au/licensing/transferring-your-overseas-licence.asp.

Remaining overseas licence holders

Licence holders from non-recognised countries or those from experienced driver recognised countries who are less than 25 years of age are required to pass a practical driving assessment and theory test when applying for an Australian driver's licence.

8. Why must permanent visa holders transition to a WA driver licence?

WA road laws reflect the policy principles of the national driver licensing scheme (NDLS) which requires that *"Drivers moving interstate and drivers from overseas are exempt from the requirement to obtain a driver's licence in the jurisdiction for a period of three months. This is a continuous period that commences when the licensee takes up residence in a jurisdiction."*

The period of three months recognises the need for interstate and overseas licence holders to continue to drive upon arrival in the jurisdiction, and allows for the application and assessment process for obtaining a WA driver's licence.

However, after three months the national policy requires a person to hold the local jurisdictional driver's licence. There are many reasons for this policy, and for it to be applied consistently throughout Australia, including:

- These drivers are likely to be regularly driving for a long period of time on Australian roads and therefore should be suitably assessed on their ability to safely drive.
- It is more likely for permanent visa holders to engage in employment which could potentially require them to carry passengers for hire and reward purposes or operate heavy vehicles. In either case, their ability to safely drive must be ensured in the interest of public safety.

An Australian driver's licence is also an identity document widely accepted within Australia. Transitioning from an overseas licence to a WA driver's licence creates a record on the National Exchange of Vehicle and Driver Information System (NEVDIS) that can be linked to any vehicles they own and their road safety/driving record.

- Overseas licence holders must pay the prescribed penalty for any offences they commit against WA road laws, which are then recorded against their name on the DoT licensing and WA Police Force databases. If there are any demerit points applied to an offence the points will be recorded on the DoT demerit points register. If the number of current demerit points recorded against a person in the demerit points register reaches at least 12, an excessive demerit points notice, which will disqualify the driver from holding or obtaining a driver's licence for a specified period, can be given to holders of an overseas licence.
- In the event an overseas driver is given an excessive demerit points notice, the driver is ineligible to access the additional opportunities to continue driving in WA such as an election of a [Good Behaviour Period](#).
- **One licence only** - The NDLS is based on the principles of *One Person One Licence*. A person can only drive in Australia using the authority of one driver's licence. When a person holding an overseas driver's licence is granted an Australian driver's licence; their overseas licence ceases to be recognised. Should this person then lose their authority to drive on an Australian driver's licence (such as an excessive demerit points disqualification), they are still unable to drive on their overseas licence.

9. Discussion

Failing a practical driving assessment

C (car) and R (motorcycle) class

Currently, when the holder of an overseas driver's licence issued in a non-recognised country or experienced driver recognised country (aged under 25 years) applies for a WA driver's licence to drive C or R class vehicles, the person is required to pass a theory test and a practical driving assessment to show their ability to safely drive motor vehicles as the licence would authorise, prior to being granted a WA driver's licence. Should the person pass their theory and practical driving assessment, they are granted a WA driver's licence on payment of the prescribed fee.

Heavy vehicle classes – Light Rigid, Medium Rigid, Heavy Rigid or Heavy Combination

In WA, all holders of an overseas driver's licence may apply to drive an LR, MR, HR or HC class vehicle, rather than apply to drive a C (car) class vehicle, provided they meet the relevant eligibility (age and tenure) requirements for the higher class of licence.

An overseas licence can be used to meet eligibility requirements for a higher class of licence. For example, a person must have a car licence for one year before they can hold a light rigid (LR) licence in WA. A person can use the time they have held an overseas car licence towards the one year and apply for a WA light rigid (LR) licence instead of a car licence. Depending on where the overseas licence was issued the person may need to complete a general road rules and heavy vehicle theory test and a practical driving assessment, before being granted a WA LR driver's licence.

What happens when the holder of an overseas driver's licence fails a practical driving assessment?

Where the holder of an overseas driver's licence fails a practical driving assessment, they are still authorised to drive on their overseas licence UNTIL a WA driver's licence is granted, unless the person has resided in WA for over three months since the grant of a permanent visa.

Holders of an overseas driver's licence who have applied for a higher class (LR, MR, HR or HC) and subsequently failed the heavy vehicle practical driving assessment, are required to abide by the conditions of holding a learner's permit when learning to drive a vehicle of a higher class. The person can continue to lawfully drive a C (car) or R (motorcycle) class vehicle in WA if their overseas driver's licence is still valid and authorises these class(es).

Notwithstanding the above, there are legislative provisions that provide for the CEO, DoT to exclude a person who holds an overseas driver's licence from driving in WA if the CEO considers that the person is not sufficiently able to safely drive motor vehicles.

The challenge in excluding the holder of an overseas driver's licence from being authorised to drive in WA is the regulatory requirement that the exclusion must be given by the CEO, in writing, to the person who holds the overseas driver's licence i.e. personally given to the person.

As practical driving assessments are not always conducted by employees of the CEO, in particular in regional areas, the notice cannot always be personally given by a person delegated by the CEO. It is important that the application of any policy/legislative requirements can be consistently applied throughout the State to ensure people are not adversely impacted simply due to the location in which they reside.

DoT has a policy that allows a driver assessor, when presented with a candidate whose driving skills are adversely affected by cognitive impairments and/or skill deficiencies that the assessor believes cannot be rectified with feedback or additional practice, to submit an 'At Risk Driver's Report' (Report). The aim of the report is to provide as much supporting information as possible to assist the CEOs delegate to make an informed decision that protects driver assessors, other road users, and the community. Depending on the circumstances outlined in the Report a decision may be made to personally give a notice to exclude a person who holds an overseas driver licence from being authorised to drive a motor vehicle on a road in this State.

The policy problem being addressed

It is clear from a public policy perspective that when a person has failed a practical driving assessment; they have NOT demonstrated their ability to safely drive a vehicle on public roads. Notwithstanding this, the Regulations do not automatically cease to recognise an overseas driver's licence upon the failure of a practical driving assessment, meaning a person may lawfully continue to drive on their overseas licence.

It could be argued that such drivers should be considered a known road safety risk as the Government is aware of their inability to safely drive on our roads. This is in sharp contrast to Australians applying for the grant of a WA driver's licence as they are not permitted to drive independently if they fail a practical driving assessment as they have not demonstrated their ability to safely drive a vehicle on a road.

One of the CCC recommendations calls for the automatic exclusion of a person from being authorised to drive on their overseas driver's licence immediately upon failing a practical driving assessment.

It should be noted this recommendation will remove the recognition of the overseas licence in its entirety and not limited to the class of vehicle the person failed the assessment in. Therefore, an overseas licence holder that fails an assessment of any licence class will have the authorisation to drive vehicles of all classes, including C (car) class vehicles, removed.

The following table provides a snapshot of how other Australian jurisdictions address this matter when a holder of an overseas driver's licence, applying for an Australian driver's licence, fails a practical driving assessment.

Jurisdiction	WA	ACT	NSW	VIC	TAS	SA	QLD	NT
Recognition of overseas driver's licence ceases if driving test failed.	No	Yes Issued an ACT Learner Licence	Yes	Yes	No currently under review.	Yes Issued with a temporary driving permit (TDP)	Yes	N/A Different system

As is evident from the table, New South Wales, Victoria, South Australia and Queensland immediately cease the recognition of an overseas driver's licence should the holder fail a practical driving assessment.

Time period an overseas driver's licence should be recognised.

The CCC recommendation to the Minister for Transport was that *"a licence issued under a foreign law becomes invalid three months after the holder first arrives in Western Australia"*. To some extent, this recommendation is already in place for permanent visa holders that reside in WA.

All other overseas visitors can continue to drive in WA on a current overseas driver's licence and are not subject to the three month period. Visitors can stay in Australia for short periods or a number of years such as the student visa (subclass 500) which can allow a person to stay in Australia for up to five years.

A decision needs to be made on introducing a time period that an overseas driver's licence held by a visiting driver will be recognised in WA, including whether the recognition should be the same as for permanent residents of WA, or a different period, such as extended to 12 months.

A shorter period, such as three months, places a relatively higher burden on a short term visitor to WA. A longer maximum period, such as 12 months, aligns with many temporary visa periods, and still limits the ability for visitors to drive in WA for extended periods without the CEO of DoT considering their driving skills.

Visitors in Australian states and territories, other than the Northern Territory, can drive on their overseas driver's licence for the period it remains current. Overseas visitors must obtain a

Northern Territory licence within three months of continuous time spent in the Northern Territory.

Permanent visa holders in Australian states and territories can drive on their overseas driver's licence for the following periods:

Jurisdiction	Time period permanent visa holders overseas licence will be recognised
TAS and ACT	Three months from the date of their permanent visa.
WA, NSW, SA and QLD	Three months from the date of their permanent visa or three months since taking up residency in the jurisdiction, whichever is the latter.
VIC	Six months from the date of their permanent visa or six months since arrival in Australia, whichever is the latter.
NT	Within three months of continuous time spent in the Northern Territory

When considering the time period an overseas driver's licence should be recognised in WA, additional factors need to be taken into account, such as whether:

- the period should commence each time a person arrives to WA (i.e. continuous period in WA);
- the ability for overseas licence holders to understand the requirements and comply; and
- the requirements can be effectively enforced.

[Invitation for feedback](#)

The DoT is inviting stakeholder feedback, with supporting rationale, on DoT implementing the recommendations made by the CCC, relating to overseas driver licences.

The legislative intent underpinning the recognition of overseas driver's licences is to allow short term visitors to legally drive in WA. Short term visitors may include tourists, backpackers and people visiting Australia for a short stay on business or visiting their family or friends who would typically be visiting for a period of one year or less.

However, there are numerous circumstances where temporary visa holders stay in Australia for medium to long term periods on a temporary visa and continue to drive on their overseas driver's licence. Examples include temporary working visa holders or students engaging in long term studies who could be in the country for a decade or longer depending upon how many times their visas may get extended. Some asylum seeker applications can also take a long time to process especially when disputed.

In addition to being a signatory to the Geneva Convention, the recognition of overseas driver's licences is a fundamental component of the tourism supply chain which is a major contributor to the Australian economy. In exchange, many overseas jurisdictions bilaterally recognise Australian driver's licences; thus benefitting Australians travelling overseas.

Recommendation 1 - Cease the recognition of an overseas driver's licence after a failed practical driving assessment

Your feedback is sought in relation to DoT amending the Regulations to automatically cease the recognition of an overseas driver's licence where the person fails a practical driving assessment in WA.

This recommendation would cease the recognition of all classes held by the overseas driver. The person would need to pass a practical driving assessment for the highest class of vehicle(s) they seek to drive in WA, as part of the application for a WA driver's licence. Note, a driving assessment will be required for each *hierarchy* of vehicle classes, meaning a riding assessment will be required for the highest class of motorcycle licence (R class) as well as a driving assessment for the highest class of motor vehicle they wish to drive.

Recommendation 2 – Change the prescribed period of time that a person can drive on their overseas driver's licence in WA

Your feedback is sought in relation to DoT amending Regulations to cease the recognition of an overseas driver's licence by overseas visitors after a prescribed period of time, notwithstanding the overseas driver's licence may cease earlier should the holder fail a practical driving assessment.

Feedback is sought on determining a suitable length of time for the recognition of overseas driver's licences held by visiting drivers **and** permanent visa holders as well as the supporting rationale.

Feedback is also requested on further defining the period:

- as *continuous time spent in WA*; and
- the date the period commences, by aligning it with the date the person arrives to WA, the issue date of a visa and/or the date since the person commenced residing in WA.